

108TH CONGRESS
1ST SESSION

S. 428

To provide for the distribution of judgment funds to the Assiniboine and
Sioux Tribes of the Fort Peck Reservation.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 24, 2003

Mr. BAUCUS introduced the following bill; which was read twice and referred
to the Committee on Indian Affairs

A BILL

To provide for the distribution of judgment funds to the
Assiniboine and Sioux Tribes of the Fort Peck Reservation.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Assiniboine and Sioux
5 Tribes of the Fort Peck Reservation Judgment Fund Dis-
6 tribution Act of 2003”.

7 **SEC. 2. FINDINGS AND PURPOSE.**

8 (a) FINDINGS.—Congress finds that—

9 (1) on December 18, 1987, the Assiniboine and
10 Sioux Tribes of the Fort Peck Reservation and 5 in-

1 dividual Fort Peck tribal members filed a complaint
2 before the United States Claims Court (currently the
3 Court of Federal Claims) in Assiniboine and Sioux
4 Tribes of the Fort Peck Reservation, et al, v. The
5 United States of America, Docket No. 773-87-L to
6 recover interest earned on trust funds while those
7 funds were held in special deposit and IMPL-agency
8 accounts;

9 (2) in the case referred to in paragraph (1), the
10 Court held that the United States was liable for any
11 income derived from investment of the trust funds of
12 the Tribe and individual members of the Tribe for
13 the period during which those funds were held in
14 special deposit and IMPL-agency accounts;

15 (3) the plaintiffs in the case referred to in para-
16 graph (1) entered into a settlement with the United
17 States for claims made under Docket No. 773-87-
18 L on December 31, 1998, for payment by the
19 United States of—

20 (A) \$1,339,415.33, representing interest
21 earned on funds while held in Special Deposit
22 accounts at the Fort Peck Agency during the
23 period August 13, 1946, through September 30,
24 1981;

25 (B) \$2,749,354.41, representing—

1 (i) interest on the principal indebted-
2 ness for the period from August 13, 1946,
3 through July 31, 1998; plus

4 (ii) \$364.27 in per diem interest on
5 the principal indebtedness for each day
6 during the period commencing August 1,
7 1998, and ending on the date on which the
8 judgment is paid; and

9 (C) \$350,000, representing the litigation
10 costs and attorney's fees that the Tribe in-
11 curred to prosecute those claims;

12 (4) the terms of the settlement were approved
13 by the Court on January 8, 1999, and judgment was
14 entered on January 12, 1999;

15 (5) on March 18, 1999, \$4,522,551.84 was
16 transferred to the Department of the Interior;

17 (6) that judgment amount was deposited in an
18 escrow account established to provide—

19 (A) \$350,000 for the payment of attor-
20 ney's fees and expenses; and

21 (B) \$4,172,551.84 for pending Court-or-
22 dered distribution to the Tribe and individual
23 Indian trust beneficiaries;

24 (7) on January 31, 2001, the Court approved
25 a joint stipulation that established procedures for—

1 (A) identification of the class of individual
2 Indians having an interest in the judgment;

3 (B) notice to and certification of that
4 class; and

5 (C) the distribution of the judgment
6 amount to the Tribe and affected class of indi-
7 vidual Indians;

8 (8)(A) on or about February 14, 2001, in ac-
9 cordance with the Court-approved stipulation,
10 \$643,186.73 was transferred to an account estab-
11 lished by the Secretary for the benefit of the Tribe;
12 and

13 (B) that transferred amount represents—

14 (i) 54.2 percent of the Tribe's esti-
15 mated 26-percent share of the amount re-
16 ferred to in paragraph (6)(B); plus

17 (ii) 50 percent of the Tribe's esti-
18 mated 26-percent share of interest and
19 capital gains earned on the judgment
20 amount from the period beginning March
21 18, 1999, and ending on December 31,
22 2000;

23 (9) under the Court-approved stipulation—

24 (A) that transferred amount is to remain
25 available for use by the Tribe in accordance

1 with a plan adopted under the Indian Tribal
2 Judgment Funds Use or Distribution Act (25
3 U.S.C. 1401 et seq.);

4 (B) the Tribe will most likely receive addi-
5 tional payments from the distribution amount
6 once the identification of all individuals eligible
7 to share in the distribution amount is completed
8 and the pro rata shares are calculated; and

9 (C) those additional payments would in-
10 clude—

11 (i) the balance of the share of the
12 Tribe of the distribution amount and in-
13 vestment income earned on the distribution
14 amount;

15 (ii) the portion of the distribution
16 amount that represents income derived on
17 funds in special deposit accounts that are
18 not attributable to the Tribe or any indi-
19 vidual Indian; and

20 (iii) the portion of the distribution
21 amount that represents shares attributable
22 to individual Indians that—

23 (I) cannot be located for pur-
24 poses of accepting payment; and

1 (II) will not be bound by the
2 judgment in the case referred to in
3 paragraph (1); and

4 (10) pursuant to the Indian Tribal Judgment
5 Funds Use or Distribution Act (25 U.S.C. 1401 et.
6 seq.), the Secretary is required to submit to Con-
7 gress for approval an Indian judgment fund use or
8 distribution plan.

9 **SEC. 3. DEFINITIONS.**

10 In this Act:

11 (1) COURT.—The term “Court” means the
12 United States Court of Federal Claims.

13 (2) DISTRIBUTION AMOUNT.—The term “dis-
14 tribution amount” means the amount referred to in
15 section 2(6)(B).

16 (3) JUDGMENT AMOUNT.—The term “judgment
17 amount” means the amount referred to in section
18 2(a)(5).

19 (4) PRINCIPAL INDEBTEDNESS.—The term
20 “principal indebtedness” means the sum referred to
21 in section 2(a)(3)(A).

22 (5) TRIBE.—The term “Tribe” means the As-
23 siniboine and Sioux Tribes of the Fort Peck Res-
24 ervation.

1 **SEC. 4. DISTRIBUTION OF JUDGMENT FUNDS.**

2 (a) IN GENERAL.—Notwithstanding any provision of
3 the Indian Tribal Judgment Funds Use or Distribution
4 Act (25 U.S.C. 1401 et seq.) to the contrary, the share
5 of the Tribe of the distribution amount, and such addi-
6 tional amounts as may be awarded to the Tribe by the
7 Court with respect to the case referred to in section
8 2(a)(1) (including any interest accrued on those
9 amounts)—

10 (1) shall be made available for tribal health,
11 education, housing and social services programs of
12 the Tribe, including—

13 (A) educational and youth programs;

14 (B) programs for improvement of facilities
15 and housing;

16 (C) programs to provide equipment for
17 public utilities;

18 (D) programs to provide medical assistance
19 or dental, optical, or convalescent equipment;
20 and

21 (E) programs to provide senior citizen and
22 community services; and

23 (2) shall not be available for per capita dis-
24 tribution to any member of the Tribe.

25 (b) BUDGET SPECIFICATION.—The specific programs
26 for which funds are made available under subsection

1 (a)(1), and the amount of funds allocated to each of those
2 programs, shall be specified in an annual budget developed
3 by the Tribe and approved by the Secretary.

4 **SEC. 5. APPLICABLE LAW.**

5 Except as provided in section 4(a), all funds distrib-
6 uted under this Act are subject to sections 7 and 8 of
7 the Indian Tribal Judgment Funds Use or Distribution
8 Act (25 U.S.C. 1407, 1408).

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